

CALENDAR ITEM

C11

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02/07/17

PRC 3940.1

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K. Connor

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Winifred Brady Noble and MUFG Union Bank, N.A., formerly known as Union Bank, Co-Trustees of the Charles E. Noble Trust Dated July 13, 1992; Winifred Brady Noble, Trustee of the Winifred Brady Noble 2001 Trust; William L. Noble, Trustee of the William Noble 2011 Trust; Morris H. Noble, Jr., Trustee of the Morris H. Noble, Jr. 2000 Trust Dated January 11, 2000

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 2181 Cascade Road, near the city of South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and covered boat hoist.

LEASE TERM:

10 years, beginning September 23, 2016.

CONSIDERATION:

\$872 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5;
California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On February 5, 2007, the Commission authorized a Recreational Pier Lease for the existing pier and covered boat hoist to Winifred Brady Noble and Union Bank of California, Co-Trustees of the Charles Noble Trust Dated July 13, 1992, and Winifred Brady Noble, Trustee of the Winifred Brady Noble 2001 Trust ([Calendar Item C09, February 5, 2007](#)). That lease expired on September 22, 2016. Since the last recorded deed, Union Bank of California has changed ownership and is now known as MUFG Union Bank, N.A. In January 2013, a portion of the upland parcel ownership was transferred to William L. Noble, Trustee of the William Noble 2011 Trust, and Morris H. Noble, Jr., Trustee of the Morris H. Noble, Jr. 2000 Trust Dated January 11, 2000. The Applicant is now applying for a General Lease – Recreational Use.

The subject facilities are used for recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings and the immediate area of the pier is slightly sloped and rocky with large boulders. The topography and the location of upland structures provide access for the pier and allow the public to walk or navigate under the pier within the Public Trust easement.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to

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compensate the people of the State for the occupation of the public land involved. For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically

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exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

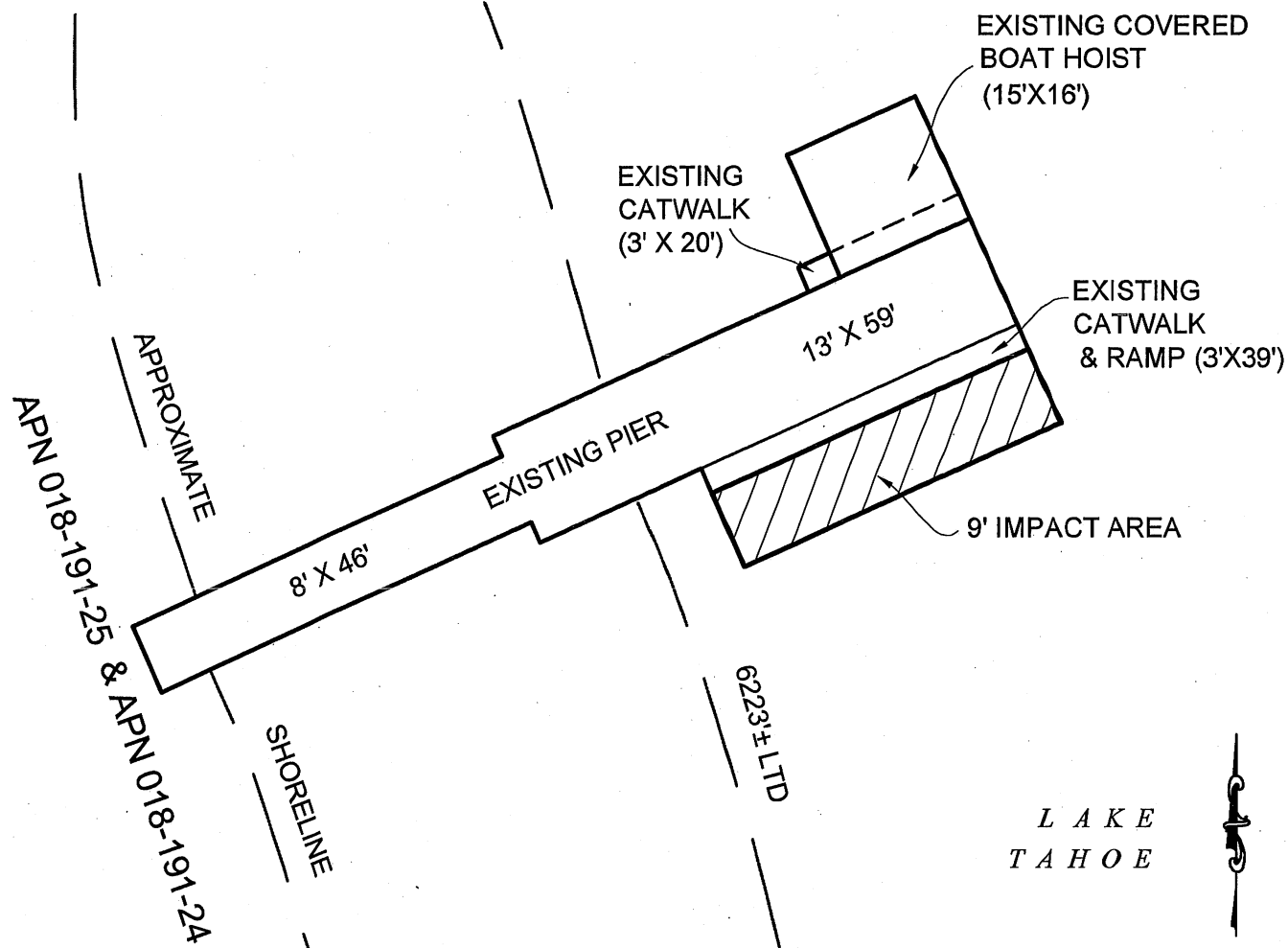
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Winifred Brady Noble and MUFG Union Bank, N.A., formerly known as Union Bank, N.A., Co-Trustees of the Charles E. Noble Trust Dated July 13, 1992; Winifred Brady Noble, Trustee of the Winifred Brady Noble 2001 Trust; William L. Noble, Trustee of the William Noble 2011 Trust; Morris H. Noble, Jr., Trustee of the Morris H. Noble, Jr. 2000 Trust Dated January 11, 2000, beginning September 23, 2016, for a term of 10 years, for the continued use and maintenance of an existing pier and covered boat hoist as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$872, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

NO SCALE

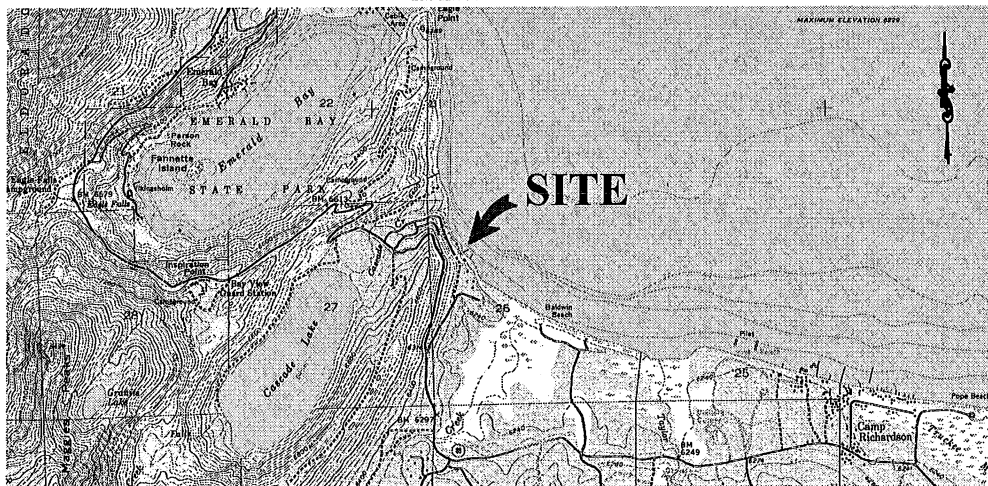
SITE



2181 CASCADE ROAD, NEAR CITY OF SOUTH LAKE TAHOE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

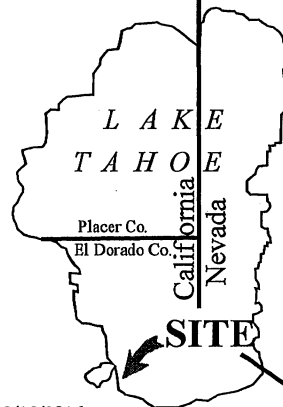
Exhibit B

PRC 3940.1

NOBLE ET AL.

APN 018-191-24 & 25

GENERAL LEASE -
RECREATIONAL USE
EL DORADO COUNTY



MIJ 12/19/2016

EXHIBIT A

PRC 3940.1

LAND DESCRIPTION

A parcel of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 5 of fractional Section 26, Township 13 North, Range 17 East, MDM., as shown on Official Government Township Plat approved May 19, 1875, County of El Dorado, State of California, and more particularly described as follows:

All those lands underlying an existing pier, covered boat hoist, and two (2) catwalks lying adjacent to those parcels as described in Exhibit A of that Grant Deed recorded November 15, 2001 in Document 2001-0073395 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared October 17, 2016 by the California State Lands Commission Boundary Unit.



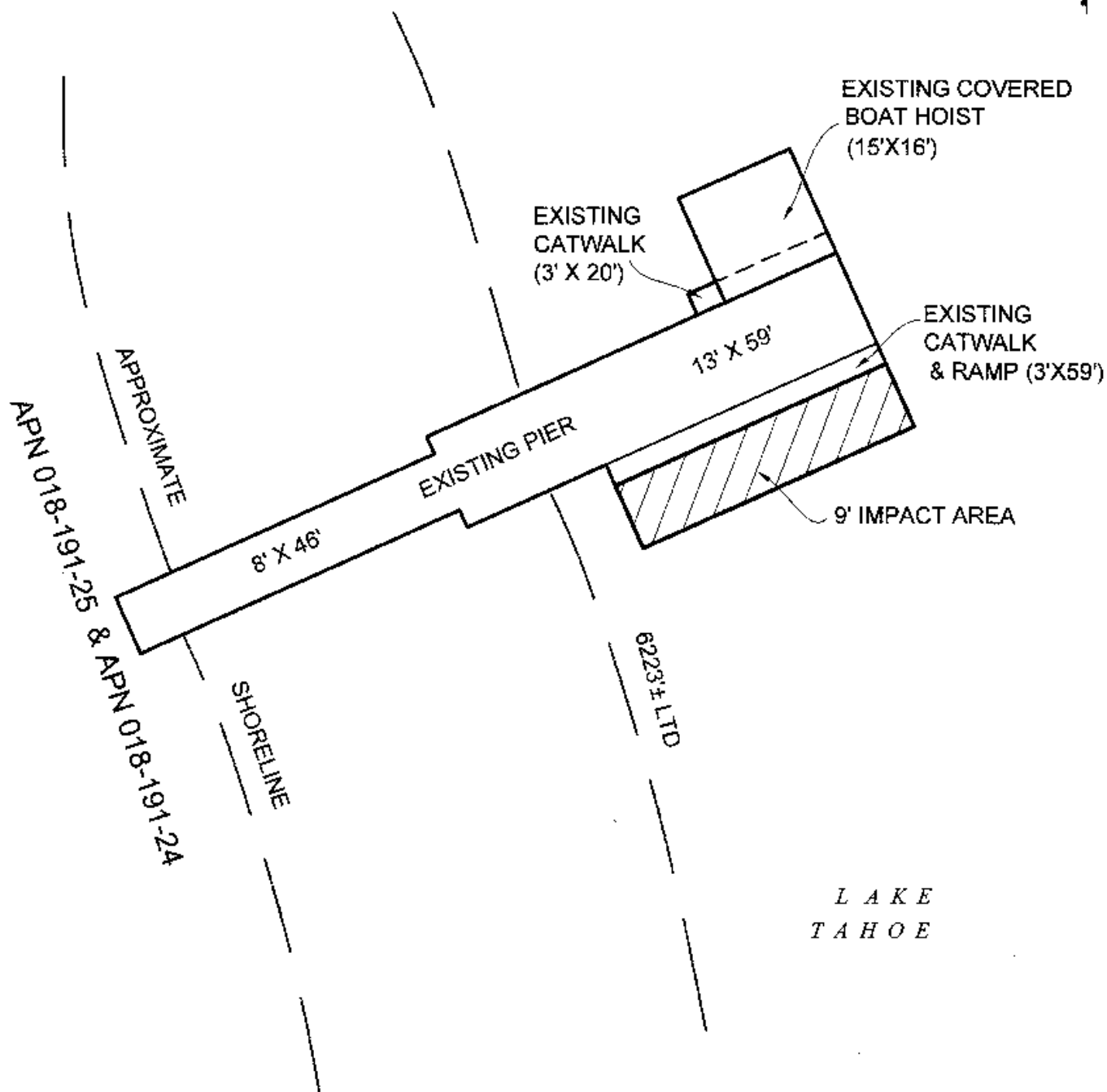


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 3940.1, NOBLE ET AL.
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

